



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,928	12/14/2001	Paul Anthony Wycliffe	66384 CCD	3762

7590

01/08/2004

COOPER & DUNHAM LLP  
1185 Ave. of the Americas  
New York, NY 10036

EXAMINER
----------

BECKER, DREW E

ART UNIT	PAPER NUMBER
----------	--------------

1761

DATE MAILED: 01/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/016,928

Applicant(s)

WYCLIFFE ET AL.

Examiner

Drew E Becker

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of group III in Paper No. 1103 is acknowledged. In addition, the examiner has concluded that group I should be included with the examination of group III.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3, 8, 11, 16, and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art [Figures 1-5C] in view of Graham [Pat. No. 1,306,809].

Applicant's Admitted Prior Art (AAPA) teaches a carbonated beverage package comprising a metal can body with an upper edge and neck, a carbonated beverage within the can, a lid which is upwardly domed, has an aperture, and a flexible closure member (Figure 1-5C; pages 1-3 & 7-11). AAPA does not teach an outward projecting flange with no return bend and a U-shaped metal seam member holding the lid and flange together. Graham teaches a container comprising an outward projecting flange with no return bend (Figure 1, #2) and a U-shaped metal seam member holding the lid

and flange together (Figure 2, #9). It would have been obvious to one of ordinary skill in the art to incorporate the seam structure of Graham into the package of AAPA since both are directed to cans, since AAPA possessed a lid and seam which required a complicated set of bends and folds, and since the U-shaped seam member of Graham effectively contained pressurized contents (page 1, lines 36-64) without the need for the prior art's complicated bends and folds.

4. Claims 1-5, 7-11, 14-15, and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Henchert [Pat. No. 2,969,166].

AAPA teaches a carbonated beverage package comprising a metal can body with an upper edge and neck, a carbonated beverage within the can, a lid which is upwardly domed, has an aperture, and a flexible closure member (Figure 1-5C; pages 1-3 & 7-11). AAPA does not teach an outward projecting flange with a return bend holding the lid and flange together. Henchert teaches a package comprising an outward projecting flange with a return bend holding the lid and flange together (Figure 4, S) and the use of adhesive (column 2, line 28). It would have been obvious to one of ordinary skill in the art to incorporate the seam structure of Henchert into the package of AAPA since both are directed to containers, since AAPA possessed a lid and seam which required a complicated set of bends and folds, and since the seam member of Graham effectively contained food materials without the need for the prior art's complicated series of bends and folds.

5. Claims 1-2, 4, 6-7, 9, 12, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA, in view of Graham, as applied above, and further in view of Henchert.

AAPA and Graham teach the above mentioned components. AAPA and Graham do not teach an adhesive or an inwardly curled edge. Henchert teaches a package comprising a seam with adhesive (column 2, line 28) and an inwardly curled edge (Figure 7). It would have been obvious to one of ordinary skill in the art to incorporate the adhesive and curled edge of Henchert into the package of AAPA, in view, of Graham, since all are directed to food containers, since adhesive was commonly used to hold containers together, since Graham already included a flange (Figure 1, #2), and since the curled seam structure of Henchert would prevent the consumer from contacting a potentially sharp metal edge.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAP, in view of Graham, as applied above, and further in view of Broverman et al [Pat. No. 3,073,479].

AAPA and Graham teach the above mentioned components. AAPA and Graham do not teach a welded seam. Broverman et al teach the conventional practice of welding a container seam (column 1, line 13). It would have been obvious to one of ordinary skill in the art to incorporate the weld of Broverman et al into the package of AAPA, in view, of Graham, since all are directed to food containers, since Graham already included a flange (Figure 1, #2), and since welds were commonly used to hold containers together as taught by Broverman et al (column 1, line 13).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0987.

A handwritten signature in black ink, appearing to read "Drew Becker", with a long horizontal flourish extending to the right.

Drew E Becker  
Primary Examiner  
Art Unit 1761